



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,852	09/18/2001	Ross Malme	10602/35345	8503
24728 7590 12/22/2006 MORRIS MANNING MARTIN LLP 3343 PEACHTREE ROAD, NE 1600 ATLANTA FINANCIAL CENTER ATLANTA, GA 30326			EXAMINER LIU, I JUNG	
			ART UNIT	PAPER NUMBER
			3691	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/22/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/954,852

Applicant(s)

MALME ET AL.

Examiner

Marissa Liu

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/19/2001 and 01/15/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The specification is objected to because the phrase: "The consumer user" (page 9, ¶ 01117) is confusing. Correction is required. See MPEP § 608.01 (b).

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3, 6-8, 11-14, 17-20, and 22-24 are rejected under 35 U.S.C. 101.

Referring to claims 1-3, 6-8, and 11. Claims 1-3, 6-8 and 11 do not provide a practical application that produces a useful result. For an invention to be "useful" it must satisfy the utility requirement of section 101. The USPTO's official interpretation of the utility requirement provides that the utility of an invention has to be (i) specific, (ii) substantial and (iii) credible. MPEP § 2107. Claims 1-3, 6-8 and 11 merely "provides" aggregated curtailment commitment data to energy market purchasers. The body of the claims recites the provision of certain elements. The mere provision of elements, absent any active involvement in an executed step, does not move to manifest a useful result.

Furthermore, with reference to independent claim 1, the preamble purports utility, but the body of the claim is not commensurate with the scope of the preamble, and does not provide the "active steps" necessary for energy load curtailment.

Referring to claims 12-14, 17-20, and 24. Claims 12-14, 17-20, and 24 do not provide a practical application that produces a useful result. For an invention to be "useful" it must satisfy

Art Unit: 3691

the utility requirement of section 101. The USPTO's official interpretation of the utility requirement provides that the utility of an invention has to be (i) specific, (ii) substantial and (iii) credible. MPEP § 2107. Claims 12-14, 17-20, and 24 merely "providing" aggregated curtailment commitment data to energy market purchasers. The body of the claims recites the provision of certain elements. The mere provision of elements, absent any active involvement in an executed step, does not move to manifest a useful result.

Furthermore, with reference to independent claim 12, the preamble purports utility, but the body of the claim is not commensurate with the scope of the preamble, and does not provide the "active steps" necessary for energy load curtailment.

Referring to claims 22 and 23. Claims 22 and 23 do not provide a practical application that produces a useful result. For an invention to be "useful" it must satisfy the utility requirement of section 101. The USPTO's official interpretation of the utility requirement provides that the utility of an invention has to be (i) specific, (ii) substantial and (iii) credible. MPEP § 2107. Claims 22 and 23 merely "providing" aggregated curtailment commitment data to energy market purchasers. The body of the claims recites the provision of certain elements. The mere provision of elements, absent any active involvement in an executed step, does not move to manifest a useful result.

Furthermore, with reference to independent claim 22, the preamble purports utility, but the body of the claim is not commensurate with the scope of the preamble, and does not provide the "active steps" necessary for energy load curtailment.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-32 are rejected under 35 U.S.C. 102(e) as being unpatentable by Sneeringer, U.S. Patent No.: 6,618,709 B1 (see PTO-892, reference A).

3. As per claim 1, Sneeringer teaches a method for energy load curtailment, comprising the steps of:

receiving curtailment energy commitment data via a communication network (see column 17, lines 40-57 and column 6, lines 8-26);

aggregating the curtailment energy commitment data (see abstract and column 17, lines 40-57);

providing aggregated curtailment commitment data to energy market purchasers for purchase of the energy curtailment rights (see abstract and column 30, lines 42-58);

4. As per claim 2, Sneeringer teaches the method of claim 1 described above. Sneeringer further teaches wherein the step of aggregating (see column 2, lines 10-25) the curtailment energy data comprises aggregating said curtailment energy data by geographic area and by at

Art Unit: 3691

least one other category (see column 17, lines 28-58, column 30, lines 43-58 and column 31, lines 33-49, where “time” is equivalent of “at least one other category”).

5. As per claim 3, Sneeringer teaches the method of claim 1 described above. Sneeringer further teaches the method comprising the step of receiving executed curtailment contract data via the communication network (abstract and column 7, lines 42-62).

6. As per claim 4, Sneeringer teaches the method of claim 3 described above. Sneeringer further teaches wherein the step of receiving executed curtailment contract data comprises the step of:

receiving curtailment contract data: executing electronically a curtailment energy contract (see column 6, lines 15-67, column 11, lines 30-46 and column 17, 38-67).

7. As per claim 5, Sneeringer teaches the method of claim 1 described above. Sneeringer further teaches the method comprising the step of performing optimization calculation to determine approximate value of curtailment energy rights (see column 15, lines 7-40 and column 17, lines 40-58).

8. As per claim 6, Sneeringer teaches the method of claim 1 described above. Sneeringer further teaches the method comprising the step of performing receiving meter data (see column 11, lines 59-column 12, lines 7) for monitoring of curtailment events (see column 17, lines 40-58).

9. As per claim 7, Sneeringer teaches the method of claim 1 described above. Sneeringer further teaches the method comprising the step of associating the aggregated curtailment commitment data (see abstract and column 17, lines 40-57) with curtailment energy rights purchaser data (see abstract and column 30, lines 42-58).

Art Unit: 3691

10. As per claim 8, Sneeringer teaches the method of claim 1 described above. Sneeringer further teaches comprising the steps of:

receiving curtailment request message via the communication network (see column 17, lines 40-57 and column 6, lines 8-26);

transmitting a curtailment request notification to at least one energy consumer (see column 17, lines 40-58);

receiving meter performance data (see column 11 lines 60 – column 12, lines 23) ;

providing monitoring data via the communication network to at least one curtailment event participants (see column 17, lines 40-58).

11. As per claim 9, Sneeringer teaches the method of claim 8 described above. Sneeringer further teaches comprising the steps of:

calculating monetary remuneration for performance of a curtailment event (see column 17, lines 40-67 and column 22, lines 36-49); providing remuneration data to at least one curtailment event participants (see column 17, lines 40-67 and column 22, lines 36-67).

12. As per claim 10, Sneeringer teaches a method for energy load curtailment, comprising the steps of:

receiving curtailment energy commitment data via a communication network (see column 17, lines 40-57 and column 6, lines 8-36);

receiving executed curtailment contract data via the communication network (see Fig. 9-10 and column 17, lines 40-67);

aggregating the curtailment energy commitment data (see abstract and column 17, lines 40-57);

Art Unit: 3691

performing optimization calculation to determine approximate value of curtailment energy rights (see column 15, lines 7-40 and column 17, lines 40-58);

receiving meter data (see column 11, lines 59 – column 12, lines 7) for monitoring of curtailment events (see column 17, lines 40-58);

providing aggregated curtailment commitment data (see abstract and column 30, lines 42-58) to energy market purchasers for purchase of the energy curtailment rights (see column 15, lines 7-40 and column 17, lines 40-58);

associating the aggregated curtailment commitment data with curtailment energy rights purchaser data (see abstract, column 15, lines 7-40, column 17, lines 40-58, and column 30, lines 42-58);

receiving curtailment request message via the communication network (see column 15, lines 20-40, column 17, lines 40-57 and column 6, lines 8-26);

transmitting a curtailment request notification to at least one energy consumer (column 15, lines 20-40 and column 17, lines 39-60);

receiving meter performance data (see column 11, lines 59-column 12, lines 7) ; and
providing monitoring data via the communication network to curtailment event participants (see column 17, lines 40-58).

13. As per claim 11, Sneeringer teaches the method of claim 1 described above. Sneeringer further teaches wherein the step of aggregating the curtailment energy data comprises aggregating said curtailment energy data by geographic area and by at least one other category (see column 17, lines 29-67, where “time” is equivalent of “at least one other category”).

Art Unit: 3691

14. As per claim 12. Sneeringer teaches a method for energy load curtailment, comprising the steps of:

receiving curtailment energy commitments; aggregating the curtailment energy commitments; providing aggregated curtailment commitments to energy market purchasers (see column 2, lines 10-27 and column 17, lines 28-67);

15. As per claim 13. Sneeringer teaches the method of claim 12 described above. Sneeringer further teaches wherein the step of aggregating the curtailment energy commitments comprises aggregating said curtailment energy commitments by geographic area and by at least one other category (see column 2, lines 10-27 and column 17, lines 28-67, where “time” is equivalent of “at least one other category”);

16. As per claim 14, Sneeringer teaches the method of claim 12 described above. Sneeringer further teaches further comprising the step of receiving executed curtailment contract information (see column 17, lines 28-67).

17. As per claim 15. Sneeringer teaches the method of claim 12 described above. Sneeringer further teaches wherein the step of receiving executed curtailment contract information comprises the steps of:

receiving curtailment contract information; and executing electronically a curtailment energy contract (see column 6, lines 15-67, column 11, lines 30-46 and column 17, 38-67).

18. As per claim 16, Sneeringer teaches the method of claim 12 described above. Sneeringer further teaches comprising the step of performing optimization calculation to determine approximate value of curtailment energy rights (see column 15, lines 7-40 and column 17, lines 40-58).

Art Unit: 3691

19. As per claim 17, Sneeringer teaches the method of claim 12 described above. Sneeringer further teaches comprising the step of monitoring a curtailment event (see column 17, lines 40-58).

20. As per claim 18, Sneeringer teaches the method of claim 12 described above. Sneeringer further teaches the step of associating the aggregated curtailment commitments with curtailment energy rights purchaser (see abstract, lines 42-58, column 15, 7-40 and column 17, lines 40-67)

21. As per claim 19, Sneeringer teaches the method of claim 12 described above. Sneeringer further comprising the steps of:

receiving curtailment request; transmitting a curtailment request notification (see column 17, lines 40-67 and column 6, lines 8-26).

22. As per claim 20, Sneeringer teaches the method of claim 19 described above. Sneeringer further teaches comprising the steps of:

receiving meter performance data (see column 11, lines 59-column 12, lines 7); providing monitoring information to a curtailment event participant (see column 17, lines 40-58).

23. As per claim 21, Sneeringer teaches the method of claim 12 described above. Sneeringer further teaches the steps of:

calculating monetary remuneration for performance of a curtailment event (see column 17, lines 40-67 and column 22, lines 36-49); providing remuneration information to at least one curtailment event participants (see column 17, lines 40-67 and column 22, lines 36-67).

24. As per claim 22, Sneeringer teaches a method for energy load curtailment, comprising the steps of:

Art Unit: 3691

receiving curtailment energy commitments; receiving executed curtailment contract information (see abstract, Fig. 9-10 and column 17, lines 40-67); aggregating the curtailment energy commitments (see abstract and column 17, lines 40-67); and providing aggregated curtailment commitments (see abstract and column 30, lines 42-58) for purchase of the energy curtailment rights (see column 15, lines 7-40 and column 17, lines 40-58).

25. As per claim 23, Sneeringer teaches the method of claim 22 described above. Sneeringer further teaches the steps of:

receiving curtailment request (see column 15, lines 20-40, column 17, lines 40-57 and column 6, lines 8-26); transmitting a curtailment request notification (see column 15, lines 20-40 and column 17, lines 39-60); receiving meter performance (see column 11, lines 59-column 12, lines 7); and providing monitoring information (see column 17, lines 40-58).

26. As per claim 24, Sneeringer teaches the method of claim 12 described above. Sneeringer further teaches wherein the step of aggregating the curtailment energy commitments comprises aggregating said curtailment energy commitments by geographic area and by at least one other category (column 17, lines 28-67, where “time” is equivalent of “at least one other category”);

27. As per claim 25, Sneeringer teaches a system for energy load curtailment, comprising:

a computer system operative to receive curtailment energy commitment data via a communication network (see abstract, column 17, lines 40-57 and column 6, lines 8-26); the computer system operative to aggregate the curtailment energy commitment data (see abstract, column 17, lines 40-67); a database couple to the computer system operative to store the curtailment energy commitment data (see column 6, lines 13-67); and a communication mechanism coupled to the computer system operative to provide aggregated curtailment

Art Unit: 3691

commitment data to energy market purchasers for purchase of the energy curtailment rights (see column, lines 28-67).

28. As per claim 26, Sneeringer teaches the system of claim 25 described above. Sneeringer further teaches wherein the computer system includes logic operative to aggregate said curtailment energy data by geographic area and by at least one other category (see column 17, lines 29-67, where “time” is equivalent of “at least one other category”).

29. As per claim 27, Sneeringer teaches the system of claim 25 described above. Sneeringer further teaches wherein the computer system includes logic operative to execute a curtailment contract (see column 17, lines 38-67 and column 31 lines 65 – column 32, lines 1-7).

30. As per claim 28, Sneeringer teaches the system of claim 25 described above. Sneeringer further teaches wherein the computer system includes logic operative to perform optimization calculations to determine approximate value of curtailment energy rights (see column 15, lines 7-40, column 17, lines 40-58 and column 31 lines 65 – column 32, lines 1-7).

31. As per claim 29, Sneeringer teaches the system of claim 25 described above. Sneeringer further teaches wherein the communication mechanism is operative to receive meter data (see column 11, lines 59 – column 12, lines 7) for monitoring of curtailment events (see column 17, lines 38-67).

32. As per claim 30, Sneeringer teaches the system of claim 25 described above. Sneeringer further teaches wherein the database associates the aggregated curtailment commitment data with curtailment energy rights purchaser data (see column 6, lines 13-26, column 15, lines 7-40 and column 17, lines 40-67).

Art Unit: 3691

33. As per claim 31, Sneeringer teaches the system of claim 25 described above. Sneeringer further teaches wherein the computer system include logic operative to perform the steps of:

receiving curtailment request message; transmitting a curtailment request notification (see column 17, lines 40-57 and column 6, lines 8-36); receiving meter performance data; providing monitoring data (see column 11, lines 59-column 12, lines 7 and column 17, lines 40-58).

34. As per claim 32, Sneeringer teaches the system of claim 25 described above. Sneeringer further teaches wherein the computer system includes logic operative to perform the steps of:

calculating monetary remuneration for performance of a curtailment event; providing remuneration data to at least one curtailment event participants (see column 17, lines 40-67 and column 22, lines 36-67).

Examiner's Note

Examiner has cited particular 'columns and line numbers or figures in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

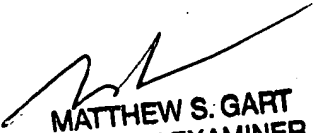
Conclusion

Art Unit: 3691

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Liu whose telephone number is 571-270-1370. The examiner can normally be reached on First Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick James Nolan can be reached on 571-270-0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600